

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

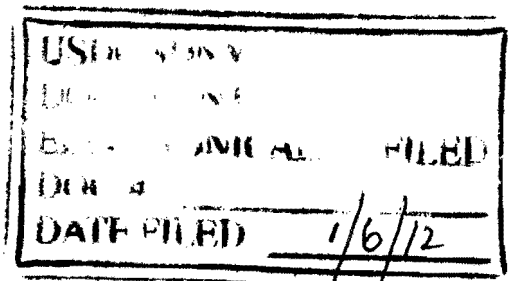
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NEXTEC APPLICATIONS, INC.,

Plaintiff,

-against-

BROOKWOOD COMPANIES, INC.,

Defendant.
-----X



07 Civ. 6901 (RJH) (THK)

ORDER

THEODORE H. KATZ, UNITED STATES MAGISTRATE JUDGE.

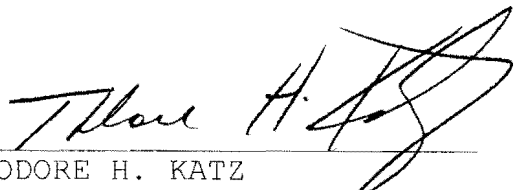
Although discovery in this case was reopened for a limited purpose, the Court has been flooded with extensive submissions from the parties regarding the scope of the reopened discovery. In addition, the Court has held several lengthy conferences with the parties on these matters.

Discovery in this case was reopened for the limited purpose of obtaining documents and two limited depositions related to Defendant Brookwood's development and sale of a new Gen III Level 5 fabric using the 52668 polymer. While the development and sale of other similar fabrics could be relevant to Plaintiff's claims and Defendant's defenses, the mere experimenting with the polymer on other fabrics would, at best, be marginally relevant and not worthy of extensive discovery at this late date, when the trial of this action is looming.

Defendant Brookwood states that while it had in the past experimented with the 52668 polymer on other Gen III fabrics, it

has not manufactured any such fabrics for sale. The Court infers from this statement that Brookwood has not offered any such fabrics for sale. (If we are wrong in that assumption, the Court should be so advised promptly.) Under these circumstances, broadening discovery to cover fabrics on which merely experimentation was done is not justified. Plaintiff's concern that at some time in the future Defendant could manufacture and sell such fabrics, which may infringe Plaintiff's patents, does not justify additional discovery at this late stage in the proceedings.

So Ordered.



THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE

Dated: January 6, 2012
New York, New York